

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4297 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
Nos. 1 to 5 No.

MAYO ALIAS MAYUR HARJIBHAI BHARVAD

Versus

POLICE COMMISSIONER

Appearance:

MS.M.N.DEVNANI FOR MR YS LAKHANI for Petitioner
MR.NEEGAM SHUKLA,AGP, for Respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 08/11/96

ORAL JUDGEMENT

This Special Civil Application is directed against the order dated 29.4.1996 passed by the Police Commissioner, Rajkot City detaining the petitioner under the provisions of Gujarat Prevention of Antisocial Activities Act, 1985. The detention order was executed on 16.5.1996 and since then the petitioner is under

detention lodged at Jamnagar Jail, Jamnagar.

This Special Civil Application was filed on 24.6.1996. Rule returnable for 25.7.1996 was issued but sofar neither any reply has been filed nor any affidavit of the Detaining Authority has been filed.

The grounds annexed with the detention order show that in all four criminal cases against the petitioner for the offences under IPC Chapters 16 and 17 were registered. Besides this the Detaining Authority has taken into consideration the statements made by three witnesses against the petitioner's antisocial activities. The petitioner has been found to be headstrong and dangerous person and has been detained inorder to prevent him from continuing with his antisocial activities.

The detention order has been challenged on more then one grounds but learned counsel has laid stress that no case of breach of public order is made out in view of the law laid down by the Supreme Court in 1995(2) GLR Pg.1268 (Mustakmiya's case), it is clear that the allegations and materials relied upon by the Detaining Authority against the petitioner do not constitute the case of breach of public order and it can at the most be said to be a breach of law and order. The detention order therefore deserves to be set aside on this ground alone.

Accordingly this Special Civil Application is allowed. The detention order dated 29.4.1996 passed by the Police Commissioner, Rajkot City is hereby quashed and set aside and the detention is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith if not required in any other case. Rule is made absolute.
